THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.17169 of 2007

Dated: 30.11.2007

Between:

Pothabathula Srinivasa Rao and others.

... PETITIONERS

AND

The State of Andhra Pradesh,
rep. by its Secretary, Hyderabad, and others.

... RESPONDENTS

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.17169 of 2007

O R D E R:

This writ petition is filed for a writ of Mandamus to declare proceedings dated 22.07.2007 of respondent No.2 as illegal and being in violation of the principles of natural justice.

Heard Sri E.V.V.S.Ravi Kumar, learned counsel for the petitioners and the learned Assistant Government Pleader for Land Acquisition.

The only contention advanced during the hearing by the learned counsel for the petitioners is that though petitioner No.1 along with his father, who was alive at that time, was present in the office of respondent No.3 on 10.08.2006 at 10.30 a.m., the latter has not given them an opportunity of personal hearing and sent his report on the objections sent by first petitioner's father against the proposed acquisition. In paragraphs 5 and 7 of the counter affidavit filed by Sri K.Nageswara Rao, Revenue Divisional Officer, Kakinada, the claim of petitioner No.1 that he and his father were denied the opportunity of personal hearing was specifically denied. It is specifically asserted that the notice issued to the petitioners clearly stipulated that it was open to them either to appear through their advocate or in person and file their objections along with documentary evidence in support of their objections and that as a matter of fact the petitioners did not attend the enquiry held under Section 5-A of the Act. It is further stated that the petitioners sent their objections by registered post. Thus respondent No.3 had taken the specific stand that though the petitioners were afforded an opportunity of personal hearing, they willfully failed to utilize the said opportunity. In the reply affidavit filed by petitioner No.3, it is stated for the first time that when petitioner No.1

accompanied his father to the office of respondent No.3 for personal hearing on 10.08.2006, respondent No.3 was not present in the office at that time and that after waiting for three hours, petitioner No.1 and his father left the place as respondent No.3 did not turn up. On a careful scrutiny of the pleadings it is clear that the petitioners in their affidavit filed along with the writ petition did not take the specific stand which they have taken in their latter affidavit filed after filing of the counter affidavit by respondent No.3. If the petitioners' assertion that petitioner No.1 along with his father went to the office of respondent No.3 and waited for three hours was correct, there was no reason for them not to make a specific assertion in that regard in the affidavit filed along with the writ petition. I am, therefore, of the view that the petitioners' averment that no opportunity of personal hearing was given by respondent No.3 is not worthy of acceptance. Order dated 22.07.2007 whereunder respondent No.2 rejected the objections of the petitioners' contained detailed reasons for rejecting the same. Learned counsel for the petitioners has not argued on the correctness or otherwise of those findings, rightly so, because this Court exercising jurisdiction under Article 226 of the Constitution of India would not examine the reasonableness or otherwise of those reasons like a Court sitting in appeal order, the decision of respondent No.2.

For the aforesaid reasons, the writ petition is dismissed.

_____

C.V. NAGARJUNA REDDY, J

30th November, 2007
ghn